



BEFORE THE MONTGOMERY COUNTY ETHICS COMMISSION

**Advisory Opinion No. 03-028
Item No. 03-028**

Unless permitted by a waiver, a public employee must not participate in any matter if the employee knows or has reason to know that any party to the matter is any business in which the public employee has an economic interest or is an employee. A public employee who is a member of a quasi-judicial commission asks whether he can participate in a commission matter if his outside employer is doing work for a third party that will have a tangential benefit for a party appearing before his commission. Because the connection between the third party and the party appearing before the commission is so attenuated, the commission finds no conflict under § 19A-11.

The public employee is a member of a quasi-judicial commission that hears and decides complaints. A third party is seeking to employ the services of the public employee's outside employer (a local firm). Those services would bring third party into compliance with local zoning laws and allow it to continue to lease some property to another entity that frequently appears as a party before the public employee's commission.

Section 19A-11 identifies a variety of conflicts of interest, none of which are applicable in this case. For example, § 19A-11(a)(2)(A) provides that, unless permitted by a waiver, a public employee must not participate in any matter if the employee knows or has reason to know that any party to the matter is any business in which the public employee has an economic interest or is an employee. But in this situation, the public employee neither has an economic interest in, nor is he an employee of, the party appearing before his commission. Section 19A-11(a)(2)(E) provides that, unless permitted by a waiver, a public employee must not participate in any matter if the employee knows or has reason to know that any party to the matter is any business or individual that is a party to an existing contract with the public employee, if the contract could reasonably result in a conflict between private interests and official duties. But in this situation, the public employee does not have a contract with the party appearing before his commission.

In sum, the relationship, as described, does not present a conflict under the ethics law.

FOR THE COMMISSION:

Elizabeth K. Kellar

October 20, 2003

Date

Elizabeth K. Kellar, Chair